

IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1857

NAPOLEON C. GABRIEL, and MICHAEL MOUMOUSIS, Class B
Equity Bearing Common Stockholders in Missouri
Pacific Railroad Company,

Petitioners-Appellants, Pro se,

—v.—

BETTY LEVIN, on Behalf of Herself and all other Holders
of Class B Common Stock of Missouri Pacific Railroad
Company, and on Behalf of said Corporation, and
ROBERT LEVASSEUR and ALLEGHANY CORPORATION,

Plaintiffs-Appellees,

—against—

MISSISSIPPI RIVER CORPORATION, MISSOURI PACIFIC RAILROAD
COMPANY, ROBERT H. CRAFT, T. C. DAVIS and THOMAS
MILBANK,

Defendants-Appellees.

**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

MICHAEL MOUMOUSIS, *Pro Se,*
NAPOLEON C. GABRIEL, *Pro Se,*
State of New Jersey
Address c/o Pine Belt Chevrolet
1088 State Highway #88
Lake Wood, New Jersey 08701

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No. 75-

NAPOLEON C. GABRIEL, and MICHAEL MOUMOUSIS, Class B
 Equity Bearing Common Stockholders in Missouri
 Pacific Railroad Company,

Petitioners-Appellants, Pro se,

—v.—

BETTY LEVIN, on Behalf of Herself and all other Holders
 of Class B Common Stock of Missouri Pacific Railroad
 Company, and on Behalf of said Corporation, and
 ROBERT LEVASSEUR and ALLEGHANY CORPORATION,

Plaintiffs-Appellees,

—against—

MISSISSIPPI RIVER CORPORATION, MISSOURI PACIFIC RAILROAD
 COMPANY, ROBERT H. CRAFT, T. C. DAVIS and THOMAS
 MILBANK,

Defendants-Appellees.

**PETITION FOR A WRIT OF CERTIORARI TO THE
 UNITED STATES COURT OF APPEALS
 FOR THE SECOND CIRCUIT**

*To the Honorable The Chief Justice of the United States
 and the Associate Justices of the Supreme Court of the
 United States:*

Opening Statement

Petitioners-Appellants, Pro Se, owners of 2 and 5 shares of Missouri Pacific Railroad common stocks, not being members of a class purportedly represented by Plaintiffs-Appellees, seek a Writ of Certiorari to review certain judgments and orders of the U.S. Court of Appeals for the Second Circuit, rendered and entered on the 18th day of December 1974, 21st day of April, 1975, and the 25th day of March, 1976.

Opinions Below

The judgments and orders of the Second Circuit Court of Appeals rendered and entered on December 18, 1974, April 21, 1975 and March 25, 1976 appear as Exhibits A, B, and C.

Jurisdiction

This Court's jurisdiction is invoked under 28 U.S.C. Section 1254(1), the judgment of the Second Circuit Court of Appeals having been rendered and entered on the 18th day of December, 1974, the orders entered the 21st day of April, 1975 and the 25th day of March, 1976.

Despite anything to the contrary in the opinions and judgments of the Federal District Court S.D.N.Y. the jurisdiction of that court was based by Plaintiffs-Appellees solely on diversity of citizenship of Plaintiffs-Appellees with Defendants-Appellees, 28 U.S.C. 1332(a).

Questions Presented

Question 1

Does this petition merit the precious time of this Honorable Supreme Court to have this Court grant this petition to be reviewed in light of the fact that: a) here is Alleghany Corporation, a giant corporate \$200 million structure that controls Investors Diversified Services, a \$7 billion investment trust complex, with Alleghany Corporation being under the jurisdiction of the Interstate Commerce Commission as a Motor Carrier in order to avoid being under the Securities and Exchange Commission's Federal Securities laws regarding stock regulations; b) billing us two appellants of 2 and 5 shares of MoPac Class B equity bearing Common Stocks \$1,919.32 (See Exhibit D) in printing costs and \$250 additional costs; c) in addition to what this giant corporation did to us appellants of MoPac Class B Common stockholders by selling us down the river by trying to force Class B stockholders to sell or convert our very valuable Class B shares which are worth over \$22,500 per share, under due process of law evaluation according to the MoPac I.C.C. "Agreed System Plan" in exchange for only \$2,450 value per share and thereby get us small stockholders fleeced out of over \$20,000 per Class B!

Question 2

a) Are not Alleghany's demands and our having been forced to pay to them \$1,919.32 for printing costs after threatening us with contempt of court and jail terms which is illegal and unethical, adding insult to injury, Alleghany

Corporation having tried through coercion to make us accept their own "Plan of Recapitalization" which gives Class B only about one-tenth of its real value or \$2,450 per Class B instead of \$22,500 per Class B by Alleghany hiring "Super Lawyers" who know their way around the political, economic and law fields; b) is it not unlawful to push small stockholders like ourselves with 2 and 5 shares of Class B when we are fighting to secure our Constitutional rights; c) but in spite of this fact, isn't Alleghany making use of the Federal Courts and the U.S. Government agencies, such as the I.C.C. through their "Super Lawyers" to make us give up our Class B properties at a fraction of their true values without due process evaluation by imposing upon us huge costs so as to intimidate us against our free exercise or enjoyment of our rights or privileges secured to us by the Constitution or laws of the U.S. by forcing us to give up our Civil rights to our property and to drop our fight because of threats and intimidation through the imposition of heavy costs upon us to discourage us from continuing our fight to save our Class B equity shares? (See Exhibits F and G.)

Question 3

Was it constitutional to have us Appellants-Petitioners saddled with the whole costs of \$1,919.32 in spite of the other 2 plaintiffs opting out? a) and why is it that because we 2 plaintiffs made a pro se Motion and Affidavit filed in the Second Circuit, U.S. Court of Appeals on July 29, 1975 (See Exhibit E) for reconsideration of the high printing costs of \$1,919.32 even though Jacob and June Cohen dropped out who should have paid one-half of \$1,919.32, but because they did not take the case to the Supreme Court they paid no costs to Alleghany, but all the costs

of \$1,919.32 were put on our bill instead. We asked for relief of costs because the other 2 plaintiffs opted out, the Honorable Court denying our Motion for Reconsideration deciding in favor of giant Alleghany by their Order filed on March 25, 1976, in Case #74-2104 (See Exhibit C) *Betty Levin et al., Appellees v. Michael Moumousis, et al., Appellants*. The Court denied our pro se Motion and "further ordered that costs in the amount of \$250 are hereby taxed against appellants Michael Moumousis and Napoleon Gabriel on the instant motion, the said costs to be paid to appellees within ten (10) days of the date of this order?"

Constitutional Provisions

Amendment V to the Constitution of the United States provides:

"No person shall . . . be deprived of life, liberty, or property, without due process of law"

The 14th Amendment, Section 1 provides:

"No state shall deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

Article 1, Section 9 provides:

"No bill of attainder or ex post facto law shall be passed."

Section 10:

No state shall * * * pass any * * * law impairing the obligation of contracts * * * ."

Statement and Reasons for Granting the Writ

FACTUAL BACKGROUND

The original suit was commenced by Betty Levin in December of 1967 against the Defendants-Appellees for better dividends for the Class B MoPac equity bearing Common. By Order of Hon. Frederick v. Pelt Bryan, Federal District Court, S.D. of N.Y. on October 9, 1968, after Robert LeVasseur and Alleghany Corporation had entered as intervenors in the case, the action was made into a class action on dividends, with no intervenors permitted after December 20, 1968.

On December 18, 1972 there was an "agreement," dated as of December 18, 1972, by and between Alleghany Corporation, Missouri Pacific R.R. and Mississippi River Corporation to have Alleghany sell their 21,248 shares of Class B or 53% of all Class B for a value of \$2,450 per Class B. It was an agreement for the sale of Alleghany's Class B to Mississippi River Corp. We are bringing up the older background facts which are very important for an understanding by this Honorable Court of this petition to disallow costs of \$1,919.32 and \$250 all for the benefit of giant Alleghany \$200 million Corporation which is imposing these costs upon us 2 and 5 share owners of Class B MoPac Stock owners for the cost of printings and other costs just because we are fighting for the due process of law evaluation of the Class B properties of 2 and 5 shares

that we own, putting these costs on us so as to discourage us two small stockowners for fighting for our Constitutional rights.

These printing costs of \$1919.32 were done to intimidate and coerce us into dropping our case, not to fight for our rights for a due process of law evaluation of our Class B MoPac stocks.

We two appellants of 2 and 5 shares were threatened by Alleghany Corporation with contempt of Court and jail terms if we did not pay these printing costs of \$1919.32, for which we made arrangements and paid for them (See Exhibits F, G).

We made a Pro Se Motion and Affidavit to the U. S. Court of Appeals on July 29, 1975 for reconsideration (See Exhibit C) of the \$1919.32 costs because this \$1919.32 was for 4 appellants, the 2 appellants Jacob and June Cohen withdrew from the Case Docket #74-2104, but the printing costs remained the same, apparently the Cohens withdrew with the understanding that they would not pay printing costs if they did not take the case to the Supreme Court. The same proposition was made to us by Alleghany lawyers, but we refused the offer and made our Petition for a Writ, October Term 1975 #74-1171. *Moumousis et al., Petitioners-Appellants v. Betty Levin et al., Plaintiffs-Appellees against Mississippi et al., Defendants-Appellees.*

On March 25, 1976 the U.S. Court of Appeals put additional costs of \$250 on us on the July 29, 1975 Motion because we made an Appeal for Reconsideration. (See Exhibit C.)

We two Class B equity shareholders have to fight for our Constitutional rights for due process of law evaluation of

our stocks because of the unreasonable result of the Court Ordered "Plan of Recapitalization." The "Plan of Recapitalization" was concocted by Mississippi River Corp. for its own benefit. Mississippi controls MoPac, and MoPac's "Plan" under 20a favor Miss. by over \$400 millions values and saves Miss. over \$62 million in I.R.S. Capital Gains Taxes. This \$400 million being fleeced from the Class B equity bearing Common stockholders who are without right of evaluation of our Class B at one tenth of its real, true value, giving Class B only \$2,450 per share whereas Class B is worth over \$22,500 per share. To add insult to injury we Class B stockholders who stand up for our Constitutional rights not only are cut off by the judgment of the U.S. Court below from having Class B shares evaluated under due process of law, but we are also being made to pay costs for printing and sanction costs because we have the courage to fight for our civil rights property evaluation according to the Constitution and laws of the U.S. Please help up and grant us a Writ of Certiorari.

Answer to Question 1

Yes, this petition merits acceptance by this Honorable Supreme Court, even with its limited time, because the very roots of our Constitution are being attacked with impunity and arrogance by those who know better, but who try to get away with their impunity, arrogance, and unlawfulness because they have an idea that the top head—the Supreme Court of the United States is much too busy to stop these usurpers of our constitutional rights and laws of the United States. For the Supreme Court to take up this petition for a writ will bring about law and order from the direction from whence our Constitution is being attacked so very successfully.

We two small stockholders have a right to a due process of law evaluation court fight for our Class B without being assessed costs and sanctions for fighting for our property constitutional rights, in order to intimidate us not to fight for our rights and for us to drop our case in return for Alleghany forgetting about the payment of \$1919.32 owed for printings, etc.

Answer to Question 2

Alleghany's demand and our being forced to pay \$1919.32 to Alleghany for printing costs under threats to us of contempt of court and jail (see Exhibits F and G and D) add insult to injury to our civil rights, our constitutional rights to our property Class B for which Alleghany is trying to make us accept through Court Orders a value of about one-tenth of Class B's real true values by hiring some "Super Lawyers" who know their way around the political, economic, law and Court field, so as to frustrate our efforts for due process evaluation of Class B.

Alleghany Corporation has no right to act as she has regarding the Class B common owned by ourselves by using the Federal Courts and the Interstate Commerce Commission through Section 20a to force Class B stockholders to give up their stocks at a fraction of their true value without a due process of law evaluation, using high costs for printing bills to us (see Exhibit D) to intimidate us against our free exercise or enjoyment of our constitutional rights or privileges secured to us by the Constitution or laws of the U.S. through threats and intimidation by imposing heavy costs on us in order to discourage us from continuing to fight for our Civil Rights which are secured to us by the

U.S. Constitution and laws of the U.S. This is against our Civil Rights—Title 18, Section 241, Chapter 13.

Unless this Honorable Court steps into this case and grants a hearing for the benefit of these concerned appellants against the large corporate structures there will be no end to this sort of action against the small people who already are up in arms against such arrogant injustice in the U.S.

Answer to Question 3

a) Alleghany's action imposing high costs to Plaintiff-Appellant for printing expenses to prevent or discourage appellants from taking their MoPac case to the U.S. Supreme Court by making appellants pay for these heavy costs of \$1919.32 if their case was taken to the U.S. Supreme Court is not according to the law and justice. Jacob R. Cohen and June Cohen dropped their case completely after losing in the Court of Appeals (see Exhibit A), 2nd Circuit. They did not appeal their case to the Supreme Court of the U.S. Therefore they did not have to pay any part of the total cost of \$1919.32 imposed upon the 4 plaintiffs. Why should we two plaintiffs be saddled with the entire cost of \$1919.32, which included the other 2 plaintiffs? When on July 29, 1975 we made a motion for reconsideration to the U.S.C.A. the court added \$250 more costs by their March 25, 1976 Order (see Exhibit C and E). The two plaintiffs Jacob R. Cohen and June Cohen opted out by not taking their case to the Supreme Court of the U.S. and they did not have to pay Alleghany any printing costs which was according to their understanding with Alleghany Corp.

We two Plaintiffs-Appellants finally made a pro se motion and affidavit entered and filed in the U.S. Court of Appeals, Second Circuit on July 29, 1975 for reconsideration, to have the printing costs of \$1919.32 reviewed by the entire 3 Honorable Judges on March 25, 1976 in case #74-104, Betty Levine et al., appellees v. Michael Moumouisis, et al., appellants. The Hon. Court denied our above pro se motion and affidavit (see Exhibit C) and further ordered that costs in the amount of \$250 are hereby taxed against appellants Michael Moumouisis and Napoleon Gabriel on this instant motion, the said costs to be paid to appellees within ten (10) days of date of this order.

CONCLUSION

For the many reasons cited Alleghany Corporation is not entitled to any fees for printing an Appendix and Brief for Objectant-Appellant, who already had their own good Briefs and Appendices compiled and in perfect and proper order at great effort and expense.

Alleghany Corporation has already done much harm to us appellants Class B stockholders by selling us down the river. Alleghany's \$1919.32 printing costs and an additional \$250 costs, when we two appellants have only 2 shares of Class B and 5 shares of Class B, is for the purposes of intimidation and coercion against appellants' civil rights, in order to help destroy us financially and to completely confuse us and to discourage us from fighting for our constitutional rights.

For the cause of justice and reason, we respectfully pray
that this Honorable Court shall grant us a writ of certiorari.

Dated: Ocean County of New Jersey
June 23, 1976

Respectfully submitted,

MICHAEL MOUMOUSIS, *Pro Se*,
NAPOLEON C. GABRIEL, *Pro Se*,
State of New Jersey
Address c/o Pine Belt Chevrolet
1088 State Highway #88
Lake Wood, New Jersey 08701

Certificate of Service

I, MICHAEL MOUMOUSIS, *Pro Se*,
I, NAPOLEON C. GABRIEL, *Pro Se*,
do hereby certify that 3 copies each of the above and fore-
going Petition for Certiorari, together with Appendix, has
been deposited in the United States Mail, postage prepaid,
on this the 23rd day of June, 1976, to the following ad-
dressees:

ORANS, ELSSEN AND POLSTEIN, Esqs.
One Rockefeller Plaza
New York, New York 10020

POMERANTZ, LEVY, HADEK & BLOCK, Esqs.
295 Madison Avenue
New York, New York 10002
Attorneys for Plaintiffs, Levin and LeVasseur

DONOVAN, LEISURE, NEWTON & IRVINE, Esqs.
30 Rockefeller Plaza
New York, New York 10020
Attorneys for Plaintiff, Alleghany Corporation

DEWEY, BALLANTINE, BUSHBY, PALMER & WOOD, Esqs.
140 Broadway
New York, New York 10007
Attorneys for Defendant Mississippi River Corp.

SULLIVAN & CROMWELL, Esqs.
48 Wall Street
New York, New York 10005
*Attorneys for Defendant, Missouri Pacific Rail-
road Company, Robert H. Craft, T. C. Davis and
Thomas F. Milbank*

Michael Moumouis

Napoleon C. Gabriel

APPENDIX

EXHIBIT A**Judgment of the U.S. Court of Appeals,****Second Circuit****United States Court of Appeals**

FOR THE

SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the eighteenth day of December one thousand nine hundred and seventy-four.

Present:

HON. HENRY J. FRIENDLY**HON. WILLIAM E. TIGERS****HON. MURRAY I. GURFEIN**

Circuit Judges,

Betty Levin, on behalf of herself and all other holders of the Class B. Common Stock of Missouri Pacific Railroad Company, Alleghany Corporation and Robert Lavasseur, Plaintiff-Appellee,

v.

Mississippi River Corporation, Missouri Pacific Railroad Company, Robert H. Craft, T.C. Davis and Thomas F. Milbank, Defendants

Michael Mourousis, Napoleon C. Gabriel, Jacob R. Cohen, Jane Cohen, Defendants-Appellants.

74-2172

74-2231

74-2104

Appeal from the United States District Court for the Southern District of New York.

This cause came on to be heard on the transcript of record from the United States District Court for the Southern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the orders and judgment of said District Court be and ~~it is hereby~~ they hereby are affirmed with costs to be taxed against the appellants.

A. DANIEL FUSARO,
Clerk

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By **VINCENT A. CARLIN,**
Chief Deputy Clerk

2a
EXHIBIT B
Order of the U.S. Court of Appeals,
Second Circuit
UNITED STATES COURT OF APPEALS

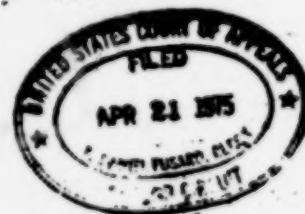
Second Circuit

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the 21st day of April, one thousand nine hundred and seventy-five.

Betty Levin, on behalf of herself and all other holders of the Class B common stock of Missouri Pacific Railroad Company, Alleghany Corporation and Robert Levanour, Plaintiff-Appellees

Mississippi River Corporation, Missouri Pacific Railroad Company, Robert H. Craft, T. C. Davis and Thomas F. Milbank, Defendants,

Michael Moumouzis, Napoleon C. Gabriel, Jacob R. Cohen, Jane Cohen, Appellants



74-2104

It is hereby ordered that the motion made herein by counsel for the

Napoleon C. Gabriel and Michael Moumouzis

by notice of motion dated April 1, 1975 to disallow the itemized and verified bill of costs filed by the appellees and to limit the costs to be taxed against appellants Gabriel and Moumouzis to an amount not to exceed \$50.00 (FIFTY DOLLARS)

be and it hereby is ~~granted~~ denied

Murray I. Gurfein
 MURRAY I. GURFEIN

Circuit Judge

3a
EXHIBIT C
Pro Se Order of the U.S. Court of Appeals,
Second Circuit
UNITED STATES COURT OF APPEALS

PRO SE
 3/17/76
 74-2104

Second Circuit

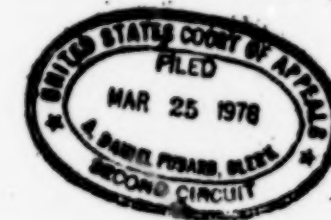
At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the 25th day of March, one thousand nine hundred and seventy-six.

Betty Levin, et al.,

Appellees,

Michael Moumouzis, et al.,

Appellants,



74-2104

Appellant Moumouzis and Gabriel
 A motion having been made herein by ~~their~~ pro se counsel for the

~~disallowance of the itemized and verified bill of costs filed by the appellees and to limit the costs to be taxed against appellants Gabriel and Moumouzis to an amount not to exceed \$50.00 (FIFTY DOLLARS)~~ for disallow of costs

Upon consideration thereof, it is

Ordered that said motion be and it hereby is denied.

THEWIE

FURTHER ORDERED that costs in amount of two hundred and fifty dollars (\$250) are hereby taxed against appellants Michael Moumouzis and Napoleon Gabriel on the instant motion, the said costs to be paid to appellees within ten (10) days of the date of this order.

Murray I. Gurfein
 MURRAY I. GURFEIN
 Circuit Judge

4a
EXHIBIT D
Bill for Printing Costs
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

STATEMENT OF COSTS

Taxed in favor of appellee - Alleghany Corp., in

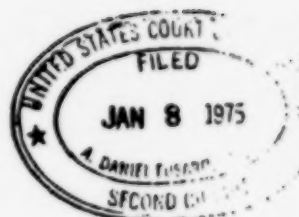
Betty Levin, on behalf of herself and all other holders of the Class B, Common Stock of Missouri Pacific Railroad Company & Robert Levasseur,
Plaintiff-Appellee,

No. 402-3, 421

v.
 Mississippi River Corporation, Missouri Pacific Railroad Company, et al.,
Defendants

September Term, 1974

Michael Moumouis, Napoleon C. Gabriel, et al.,
Defendants-Appellants.



Disbursement	1820.88
Cost of Printing Appendix	\$ 1820.88
Cost of Printing Brief	98.44
Taxed at the sum of	1919.32

A. Daniel Fusaro,
 Clerk

By Vincent A. Paulin
 Chief Deputy Clerk

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5a
EXHIBIT E

Motion for Reconsideration of Printing Costs

United States Court of Appeals
 Second Circuit

74-2104

Betty Levin, Alleghany Corporation
 and Robert Levasseur,

Plaintiffs-Appellees,

Mississippi River Corporation,
 Missouri Pacific Railroad
 Company, Robert H. Craft, T.C.
 Davis and Thomas Millbank,

Defendants-Appellees,

Michael Moumouis and Napoleon C. Gabriel,
 Jacob R. Cohen and June Cohen,

Objectants-Appellants.



74-2104
 Motion To Disallow
 Costs Of Alleghany
 Corporation Of Printing
 Appendix And Brief
 Totaling \$1919.32
 Because Alleghany Is
 Imposing These Heavy
 Costs On Objectants-
 Appellants In Order
 To Punish Us For
 Having Taken The Case
 To The United States
 Supreme Court And For
 Having Dared To Fight
 For Our Rights Secured
 To All Citizens By The
 Constitution Or Laws
 Of The United States

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of Michael Moumouis, Pro Se, Objectant-appellant, the undersigned will move this Honorable Court Of Justice at the Court House, Foley Square, New York, New York, for reconsideration by the entire panel of Honorable Justices Friendly, Timbers and Garfein of their orders with the view of entirely disallowing costs of giant Alleghany Corporation worth over \$200,000,000 because Alleghany Corporation is trying to punish us for having dared to fight against conspirators who are conspiring against rights of citizens secured to them by the Constitution or laws of the United States.

Not only that, but my contention is that by having the Federal Courts decide that the Missouri Pacific Railroad Class B Stock be evaluated under due process of law according to MoPac's Charter or "Agreed System Plan" of Reorganization by the Interstate Commerce Commission and the United States Federal District Court of Saint Louis, in 1954-1955, which is now a LAW OF THE UNITED STATES, it would net the United States Government over \$100,000,000 in Federal Income Taxes, that the United States Government did not collect.

For that reason, it is imperative that the Federal Courts look into this matter very closely and very seriously. It is the opportunity of the United States Government to do some very serious homework here.
 Yours, etc.,

DATED: County of Monmouth
 State of New Jersey
 July 28, 1975
 Address: c/o Pine Belt Chevrolet
 1088 State Highway 688
 Lakewood, N.J. 08701
 201-583-4000

Michael Moumouis, Pro Se
 Petitioner
 Objectant-appellant

6a
EXHIBIT F

Transcript of Hearing on Contempt Charges
Re Printing Costs

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 -----
4 BETTY LEVIN, et al, :

5 Plaintiffs, :

6 v : 67 Civ. 5095

7 MISSISSIPPI RIVER CORP, et al, :

8 Defendants. :
9 -----

10
11
12 New York, New York
13 July 29, 1975
14 2:15 p.m.

15 Before

16 HON. EDWARD WEINFELD, D.J.

17 Appearances

18 JAMES GABRIEL, Pro Se

19 STEPHEN HOUCK, ESQ.

20 Attorney for Alleghany Corporation, Judgment-Creditor
21
22
23
24
25

7a

1 me

2

3 THE COURT: What is your name?

4 MR. GABRIEL: James C. Gabriel. May I talk for
5 my brother, your Honor? They are family people and they don't
6 have no --

7 THE COURT: Who is Napoleon Gabriel?

8 MR. HOUCK: It's his brother. He has appeared
9 in this court. Mr. Gabriel and Mr. Moumousis have been
10 represented in this court. He was in here last time.

11 THE COURT: I will not hear you if you are
12 not an attorney.

13 MR. GABRIEL: I came down to file this motion.

14 THE COURT: I understand you have. There is no
15 stay granted. You could have applied to the Court of Appeals
16 and obtained a stay.

17 MR. GABRIEL: We don't know how to do it. We
18 are doing it on a pro se basis. We are trying to fight for our
19 five and two shares of stock.

20 THE COURT: You said that before. I heard you
21 originally. I direct these two men to appear for the taking
22 of their deposition.

23 MR. GABRIEL: They sent me down with the motion
24 to the Court of Appeals because they told me we could make the
25 motion.

THE COURT: If you want to file it, I will

me

consider it.

MR. GABRIEL: We filed it.

THE COURT: I understand you did.

MR. GABRIEL: I am sorry, sir. We told them we would take them to the Supreme Court and they said that's what we should do. We're only small people. We've got to help each other.

MR. HOUCK: It's only been before the Second Circuit three times.

THE COURT: Motion is granted. You may submit an order punishing defendants for contempt for failure to appear. They may purge themselves of the contempt upon condition that they appear for the examination as originally scheduled on Friday at 10:00 a.m. in Room 601 of this court house. If they appear at that time they will be purged of contempt; if they fail to appear then the contempt order will be enforced.

MR. HOUCK: Thank you, your Honor.

MR. GABRIEL: Your Honor, isn't there some way we can be helped? We don't know anything of these things.

THE COURT: You are not a lawyer and I won't hear you. The matter is disposed of. Tell both of them to appear on Friday morning, ten o'clock. If they don't appear, a contempt order will be issued against them. Room 601 of this court house. That is the third time they have been ordered to appear, and they will go to jail if they don't appear.

98
EXHIBIT G
Letter Re Additional Assessment

Law Offices of
Donovan Leisure Newton & Irvine
30 Rockefeller Plaza
New York, N.Y. 10020

WILLIAM J. DONOVAN
1929-1988

GEORGE S. LEISURE
CARL ELBRIDGE NEWTON
RALSTONE R. IRVINE
THOMAS J. MCFADDEN
OTTO C. DOERING, JR.
DAVID TEITELBAUM
GRANVILLE WHITTLESEY, JR.
JAMES R. WITHROW, JR.
MALCOLM FOOSHNEE
JAMES V. HAYES
THEODORE S. MOPE, JR.
RICHARD F. HOLCOMB
GEORGE S. LEISURE, JR.
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* ADMITTED TO DISTRICT OF
COLUMBIA BAR ONLY
OWEN MCGOVERN
ROBERT H. ESTES
COUNSEL

April 7, 1976

Mr. James C. Gabriel
P. O. Box 94
Sea Girt, N. J. 08750

Re: Levin, et al., v. Moumousis, et al.
74-2104

Dear Mr. Gabriel:

I enclose herewith a copy of the decision of the United States Court of Appeals, Second Circuit, on your most recent petition for reconsideration. You undoubtedly have received a copy of this order. I would appreciate at your earliest convenience a check in the amount of \$250 for the costs awarded. This check should be made to the order of Donovan Leisure Newton & Irvine.

If necessary, I will again obtain an order to take the depositions of Napoleon Gabriel and Michael Moumousis for the purpose of discovering assets which can be attached in satisfaction of this judgment. If you wish to avoid the inconvenience of having them haled before the court and again threatened with contempt, you should forward your check promptly.

Yours very truly,

M. Lauck Walton
M. Lauck Walton

Enclosure

cc: Mr. N. Gabriel
Mr. M. Moumousis

BEST COPY AVAILABLE